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United States Senate

COMMITTEE ON ARMED SERVICES

HENRY L. WRIGHT, JR., CHIEF CLERK

June 18, 1963

Hon. Burke Marshall
Assistant Attorney General
Department of Justice
Washington 25, D. C.

Dear Mr. Marshall:

Thanks a lot for responding to my recent
letter and furnishing me the information requested.

With kind regards.

Sincerely yours,


Stephen M. Young

Y/z

Memorandum

Misc.

TO : Burke Marshall
Assistant Attorney General
Civil Rights

DATE: June 21 1963

FROM : J. Walter Yeagley
Assistant Attorney General
Internal Security Division

SUBJECT: Badges for Admission to Department's Relocation Site

The records of this Division show that on March 22, 1962 you were issued badge no. 7114 for admission to the Department's relocation site.

In order to complete our records it is requested that you sign the attached receipt for the badge which was issued to you. Please return the signed receipt to Mr. J. M. Wysolmerski, Room 664, NCLC building.

Saturday
June 22, 1963
Misc

NEW YORK N. Y.

Mr. Burke Marshall, esq.
Assistant Attorney General of the U. S.
Washington, D. C.

Dear Burke

Thank you for suggesting that I be
invited to the meeting at the White
House. It was exhilarating. My services
are at your disposal. My experiences
in the field of Latin relations, my
main area of work, have made consultation
a part of my daily life. Please call upon
me whenever you feel I can help
Also take care of yourself.

Respectfully
[Redacted Signature]

You are cordially invited to attend
THE PRESENTATION CEREMONY

of the
1963 ALUMNUS OF THE YEAR AWARD

to
JAMES BALDWIN

Frederick Douglass I. H. S.
Thursday, June 20, 1963

140 West 140th Street
1:15 P.M.

Admission by Invitation

RSVP.



Mc

Rev. Norman Jimerson
North Carolina area code - 919

Blue Ridge Assembly YMCA
Black Mountain, North Carolina
(14 miles outside of Asheville)

Mrs. Jimerson said he should be
arriving there at about 8:00 pm
Eastern Daylight Time.

Misc

June 19, 1963

Honorable Benjamin E. Franklin
Assistant U.S. Attorney
Topeka, Kansas

Dear Mr. Franklin:

While we are in for a lot of movement everywhere, I know of no serious problems in Mobile, and see no reason why you should not go through with your regular plans.

Very truly yours,

BURKE MARSHALL
Assistant Attorney General
Civil Rights Division

Misc.

[REDACTED]
Mebane, North Carolina
June 10, 1963

The Honorable Burke Marshall
Assistant Attorney General
Civil Rights Division
Washington, District Columbia

Dear Mr. Marshall:

I have noted with interest the continued efforts of the Civil Rights staff in protecting the civil rights of all Americans. This must have been a busy year for all. Congratulation. Keep up the good work. I have missed all of you.

Since I left your staff, I have been confined with poor health and unable to render very much public services. Because of my health I was unable to take the North Carolina Bar in August of last year. I have recuperated almost fully and hope to be on the way again soon.

From many of the reports I have seen, it is gratifying to note the response that has been given by the Federal government in some of the most complex integration crises ever witnessed. I know that each of you played an important role. I hope to be able to rejoin you again.

In North Carolina, perhaps for the first time in history, this so-called, "liberal Southern State," is getting a frontal attack for its second-class citizenship practices. This is convincing proof to me that insofar as the Negro is concerned, all over the Nation, constitutional guaranties are wanted NOW.

Mr. Marshall
Page 2
June 10, 1963

As you probably recall, the small county where I was born, Caswell County, North Carolina, has pioneered and desegregated its public schools. For those who are familiar with the history of this county, the desegregation process was an historic event. On more than one occasion I felt that the citizens of this county may be forced to persuade the federal government to intervene. Fortunately for all, such has not been the case. The parents and the sixteen boys and girls who were involved in this desegregation process in Caswell, certainly deserve praises and admirations for the peaceful manner in which they handled this situation, despite alleged violence and harrassment by pro-segregationists, and alleged inaction by the county officials.

I am grateful for the progress that has been made this year in the area of Civil Rights. Because of the increased interest in the voters' registration drive, and the active participation of local and federal government officials in civil rights matters, I foresee a promising future. I hope, as I know you will, press hard for stronger civil rights legislation, and in the meantime, make all use that you can of existing laws.

I will be in Washington the early part of July and hope to stop in to see each of you. I am interested in a more detailed report of your current fiscal year's work, particularly, the disposition of the incompleated matter left behind by me.

Give my personal regards and best wishes to each member of your staff.

Sincerely,



Friction and Economics

FEW WILL DISPUTE the notion that racial demonstrations and outbursts of violence confront the nation with moral problems, political problems, police problems. But sometimes there is a suspiciously nervous denial that economic difficulties are posed as well.

The Potomac Institute, a non-profit research organization in Washington, declares that "there is now clear evidence that wherever racial unrest has occurred...the local economy has suffered."

The pocketbook impact of desegregation disputes stems not only from such direct causes as organized boycotts but also, more significantly, from the reluctance of investors to risk capital ventures in troubled communities.

In a 14-page report, the Potomac Institute quotes statements of industrialists and bankers of the South on the economic effects of racial disputes.

Their comments bear out the observation of Reed Sarratt, executive director of the Southern Education Reporting Service in Nashville, that there is "a direct relationship between an area's handling of its racial problems and its business success."

Martin R. Gainsbrough, chief economist for the National Industrial Conference Board, is quoted as saying that school desegregation disputes have cut into southern efforts to attract new industry.

"I know this," Gainsbrough said, "because I sit in on meetings of various companies where these matters are discussed. I have heard them eliminate from further consideration areas which have this school problem, because of the friction involved in them and the difficulty of getting top personnel to move to such places with their children."

MALCOLM BRYAN, president of the Federal Reserve Bank of Atlanta, told a Rotary Club meeting that "foreign nations or foreigners seeking plant locations or opportunities to invest their capital—and there is much off-shore capital invested in the South—or other Americans from outside our area seeking the same opportunities are not much concerned with our social opinions.

"But they are concerned," Bryan added, "with our failure in the South

to maintain law and order."

"A failure to maintain law and order can hurt bitterly in the job opportunities and the wealth that we so much need to increase if our citizens are to be well-served.

"If we behave like a banana Republic we shall get and deserve the rewards characteristic of a banana Republic."

★ ★ ★

THE POTOMAC INSTITUTE study notes that according to a Federal Reserve Bank report for the four weeks ending May 18, department stores sales in Birmingham were down 15 per cent from the corresponding period a year ago. From the beginning of this year until mid-May, Birmingham sales dropped by 5 per cent while they rose substantially in such other cities as Atlanta and New Orleans.

★ ★ ★

LITTLE ROCK school desegregation crisis in the fall of 1957 had a marked effect on the attraction of new industry, the report finds. In the two years preceding the crisis, new industrial investment totaled \$348 million for Arkansas. Little Rock itself gained ten new plants worth \$34 million and employing 1,072 workers. In the two years following the violence at Little Rock, investments in the state dropped to \$180 million and the city attracted not a single company employing more than 15 workers.

An official of the Little Rock industrial development program is quoted as saying: "We still don't like to talk about the school row. But everyone knows it knocked us in the head for four years and we're not out of it yet."

★ ★ ★

THE POTOMAC INSTITUTE says Florida, North Carolina and Tennessee, where head-on racial clashes have generally been avoided, have gained substantial economic benefits compared to the states where die-hard segregationist policies prevail.

George Benedict, executive aide to Gov. Frank Clement of Tennessee, said the state gained a major industry which had been actively sought by another Southern state when officials of that state told company executives, "You don't have to worry about any damn niggers here"

Jim Free brought this in. We will call you
later this afternoon.

L

Demos complain many top Negroes plugging for GOP

BY JAMES FREE, News Washington bureau

WASHINGTON, June 18—Some top Democrats are complaining that many of the brickbats being tossed at President Kennedy by Negro civil rights leaders have Republican fingerprints on them.

On the same day last week that President Kennedy warned the nation in a television speech that it faces a "moral crisis," the Rev. George Lawrence made it plain in a New York press conference that neither the President nor the Congress is moving fast enough.

Lawrence, who is Northeast representative for the Rev. Martin Luther King's Southern Christian Leadership Conference, said there must be "total and equal rights for the Negro now."

Kennedy's civil rights bill will propose something less than the Lawrence demands, and it is sure to bring on a Southern filibuster in the Senate. When this happens, Lawrence says the SCLC will lead "massive acts of civil disobedience all over this nation" and in Washington in particular.

THE MAIN EFFECT of such New York governor and Rockefeller civil disobedience in the nation's feller interests. "By substantial," capital will be to embarrass the said one informant. "I mean Kennedy administration and the \$25,000 and up." King himself newly-elected member of the Democratic-dominated Congress has been the recipient of other



FREE

And key Democrats say such a result would please Lawrence, a Republican whom they identify as a long-time backer of GOP governor Nelson Rockefeller—and an active campaigner for Rockefeller in 1962.

Moreover, they note that Dr. King's SCLC has received substantial financial help from the New York governor and Rockefeller's feller interests. "By substantial," said one informant. "I mean Kennedy administration and the \$25,000 and up." King himself newly-elected member of the Democratic-dominated Congress has been the recipient of other

Rockefeller favors, such as the use of an official New York state car during the Arden House conference on African affairs in New York City early this year.

PRESIDENT KENNEDY got a lot of Negro vote mileage out of a telephone call he made to Mrs. Martin Luther King while her husband was in an Atlanta jail during the 1960 campaign. But Democratic Party professionals say that King never endorsed Kennedy, and the Atlanta Negro vote, where King's personal influence should be at its height, went for Richard M. Nixon by a 55 to 45 percentage margin.

The Democratic spokesman contend that Clarence Mitchell, Washington representative of the National Association for Advancement of Colored People, has been far more critical of the Kennedy administration on civil rights than he was of the Eisenhower GOP administration.

Mitchell denies it, but Democrats still regard him as pro-Republican. They say, jestingly, that they hope Clarence Mitchell III, the NAACP official's son, can convert father to the Democratic Party faith. Young Mitchell is a Maryland Legislature. He ran on

the Democratic ticket in Baltimore.

PRESIDENT KENNEDY himself has identified ex-baseball star Jackie Robinson, one of his persistent critics on civil rights, as a "active Republican campaigner in 1960. In a recent newspaper column, Robinson defended Gov. Rockefeller's controversial marriage. Said Robinson: "We call what the governor has done an indication of the kind of courage which makes him take steps he believes to be right even if he knows they may be unpopular."

The Democratic officials who complained of GOP-fingerprinted brickbats from Negro leaders did not want to be quoted by name. "We haven't got the Negro vote in our pocket by any means," said one, "and we don't want to give the Negro Republicans any ammunition. But I don't think the Rev. King, the Rev. Lawrence or Jackie Robinson will deny what I've said."

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THE WHITE HOUSE

WASHINGTON

June 19, 1963

MEMORANDUM FOR

**Mr. Burke Marshall
Assistant Attorney General for
Civil Rights
Department of Justice**

Thank you for the draft answer to Prime Minister Obote. The march of events has made it somewhat less useful for that purpose than for others. We are using it as the basis of a message to all our Ambassadors and principal officers overseas as to what the civil rights problem is about. In so doing, we are describing it as language furnished by the Department of Justice describing the problem for State Department use and not yet otherwise released.

CK

Carl Kaysen

June 20, 1963

Dear Miss [REDACTED]

Thank you very much for your thoughtful letter of June 17. It is most encouraging to receive a letter such as yours during these trying times, and I want you to know that both the President and I deeply appreciate your generous comments about the manner in which the present racial crises were handled.

Sincerely,

Robert F. Kennedy

[REDACTED]
Minden, West Virginia

br

*My thanks to you.
Rk*

[REDACTED]
Minden, West Virginia
June 17, 1963

Attorney General Robert Kennedy
White House
Pennsylvania Avenue
Washington, D. C.

Dear Sir:

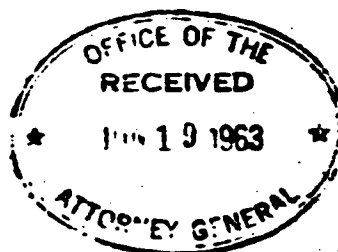
I am a Negro graduate student in the field of special education under PL 85-926. My special interests are mental retardation, cultural deprivation and social problems of the American Negro. I would like to commend you and the President for your brilliance in handling the present racial crises of our time.

I thoroughly endorse and am in accord with your position in hiring Negroes on the basis of ability rather than race. I only hope that with this new found freedom, my people will assume their responsibility in proving themselves worthy of the opportunities which you and the President are making available.

Again, I commend you and the President on a tactful job well done at the proper moments.

Sincerely,

(Miss) [REDACTED]



DEPARTMENT OF JUSTICE

TO

REMARKS:

- ☐ ATTORNEY GENERAL
☐ EXECUTIVE ASSISTANT
☐ OFFICE OF PUBLIC INFORMATION
☐ DEPUTY ATTORNEY GENERAL
☒ EXECUTIVE OFFICE—U. S. ATTORNEYS
☐ EXECUTIVE OFFICE—U. S. MARSHALS
☐ SOLICITOR GENERAL
☐ ADMINISTRATIVE DIVISION
☐ LIBRARY
☐ ANTITRUST DIVISION
☐ CIVIL DIVISION
☐ CIVIL RIGHTS DIVISION
☐ CRIMINAL DIVISION
☐ INTERNAL SECURITY DIVISION
☐ LANDS DIVISION
☐ TAX DIVISION
☐ OFFICE OF LEGAL COUNSEL
☐ OFFICE OF ALIEN PROPERTY
☐ BUREAU OF PRISONS
☐ FEDERAL BUREAU OF INVESTIGATION
☐ IMMIGRATION AND NATURALIZATION SERVICE
☐ PARDON ATTORNEY
☐ PAROLE BOARD
☐ BOARD OF IMMIGRATION APPEALS
☐ ATTENTION: _____

- ☐ SIGNATURE
☐ APPROVAL
☐ RECOMMENDATION
☐ COMMENT
☐ NECESSARY ACTION

- ☐ NOTE AND RETURN
☐ SEE ME
☐ PER CONVERSATION
☐ AS REQUESTED
☐ NOTE AND FILE

- ☐ ANSWER OR ACKNOWLEDGE ON OR BEFORE _____
☐ PREPARE REPLY FOR THE SIGNATURE OF _____

John Reilly:

We can do better than Williams I think.

*agree
JRR*

FROM _____

FROM
DIRECTOR OF PUBLIC INFORMATION
OFFICE OF THE ATTORNEY GENERAL
to
Official indicated below by check mark

Attorney General	
Deputy Attorney General	
First Assistant Deputy Attorney General	
Executive Office For U. S. Attorneys	
Executive Office For U. S. Marshals	
Solicitor General	
Executive Assistant to the Attorney General	
Assistant Attorney General, Antitrust	
Assistant Attorney General, Tax	
Assistant Attorney General, Civil	
Assistant Attorney General, Lands	
Assistant Attorney General, Criminal	
Assistant Attorney General, Office of Legal Counsel	
Assistant Attorney General, Internal Security	
Assistant Attorney General, Civil Rights	
Administrative Assistant Attorney General	
Budget and Accounts Office	
Records Administration Office	
Personnel Office	
Administrative Services Office	
Supplies and Printing Section	
Transcription Section	
Director, FBI	
Assistant to the Director - Room 5640	
Director of Prisons	
Director, Office of Alien Property	
Commissioner, Immigration and Naturalization	
Pardon Attorney	
Parole Board	
Board of Immigration Appeals	
Librarian	

MEMORANDUM

John Ruddy:
We can do
better than Williams
I think.
J

May 31, 1963

Negro AUSA applicant in Birmingham

I finally located [redacted] in New Orleans Wednesday night. My call was the first he heard of the [redacted] story and he was a little annoyed. Not because of the Negro aspect, but because [redacted] apparently isn't much of an applicant whether white or Negro.

[redacted] says [redacted] has had some credit problems in the past and has a tendency to shoot his mouth off. Negro attorneys in Birmingham apparently don't like him either. [redacted] said they have been grooming a pretty good Negro, [redacted], about 40, for the time such a vacancy opens up.

[redacted] feeling in short is that he has no personal objection to the appointment of a Negro, but that if one is to be appointed it ought to be a respected one -- both for the benefit of the Administration and of the Negro community.

VALUABLE DOCUMENT
DEBIA

JUN 10 6 03 PM '63

OLIVE GLINE
RECEIVED

Telephone call from Louis Pollak

Calling you because I had read Tony Lewis' column about the proposed legislation in this morning's paper (June 14). I am concerned about the very last paragraph in which Mr. Lewis indicates that it is unlikely that there will be any proposal in the field of fair employment practices. If this is an issue that is open for discussion, I should like to register my views. I feel that it is terribly important for the Administration to make a proposal in this field. It is an issue which to me causes the moral and legal principles here to coincide with sound political judgment. Everything would be gained by going to Congress with the strongest possible group of proposals. Making a proposal in the area of fair employment practices would serve the dual function of (1) genuinely convincing the Roy Wilkins' and the Martin Luther King's that the President really meant what he said in that magnificent speech, and (2) I think it is abundantly clear that there will be no less legislation passed if the Administration asks for more rather than for less.

Whether or not cloture is possible, which I suppose determines the issue, won't be any more difficult. If cloture isn't realized and if it isn't achieved, it will be demonstrated beyond any doubt that the people really responsible are the conservative Republicans who would join with the southern Democrats in blocking it. This would also leave the stage for Sen. Javits and a few others who speak so well on these issues, and who represent the Republicans on them -- it would leave this matter up to them. On the other hand, it would be demonstrated to the country that the Democrats really stand together on this.

In my opinion a fair employment practice bill is in the last analysis far more important than a public accommodations bill. I think everything points to the desirability of the Administration asking for as much as they can. Let the country really see that the Administration is sincere about what they have been saying lately.

Corrected Copy

H.R. _____

IN THE HOUSE OF REPRESENTATIVES

June __, 1963

Introduced by Mr. _____ and referred to the Committee on the Judiciary

AN ACT

To amend Chapter 89 of Title 28 of United States Code for the purpose of providing for the effective removal of criminal prosecutions from those state courts where citizens of the United States are being deprived of their equal Constitutional rights and other equal rights as guaranteed by the laws of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that:

Section 1. Title 28, United States Code, Section 1443 is amended by the addition of the following paragraphs:

"The right of removal under this section shall be freely sustained; and this section shall be construed to apply to any state action (executive, legislative, administrative, or otherwise) having the effect of denial or abridgement of equal rights."

Section 2. Title 28, United States Code, Section 1446 (c) is amended by the deletion of the words "before trial".

Section 3. Title 28, United States Code, Section 1447 (d) is amended by the deletion of the word "not."

CONSENTS OF PROPOSED AMENDMENTS

At the present time, citizens of the United States engaged in the struggle for equal rights for all citizens are being viciously persecuted and incapacitated by means of totally unfounded criminal prosecutions in many state courts, primarily in the South. Review by the United States Supreme Court via the state court system is often years away and largely ephemeral. The present civil rights removal statute (Title 28, United States Code 1443) has been so restrictively interpreted (as a matter of statutory construction, not as a lack of Congressional power under the Constitution, Virginia v. Rives, 100 U.S. 313 (1879)) that its use has been almost totally limited to cases where the state Constitution or state statutes deny or create the inability to enforce a citizen's equal rights. The proposed amendment would explicitly extend the right of removal in cases of denial or abridgement of equal rights to any situations brought about by state action of any kind. This extension should cover the recent arrests and prosecutions in Greenwood, Birmingham, Jackson, and elsewhere.

In addition, the amendment to the judicial code of May 24, 1949, added a new subsection (d) to section 1447 of Title 28, United States Code, which guaranteed that the remand by a federal district judge of a removed case could not be reviewed in any way by a United States Court of Appeals or the United States Supreme Court. This provision has effectively given many Southern racist federal judges a carte blanche to deny any effective federal judicial relief for citizens prosecuted in state courts for exercising their constitutional rights of assembly, petition, speech, and otherwise. The proposed amendment would expressly

make freely available review by the United States Circuit Court of Appeals of a judge's decision to remove.

Also, as the Supreme Court pointed out in the River Case, the present statutory language of Title 28, United States Code, 1446 (c) does not allow for removal when equal rights are denied by the state courts after trial has begun. And in many cases at the present time it is just after the beginning of trial that the grossest deprivations of equal rights occur. The proposed amendment to subsection 1446 (c) will allow removal at any time the denial or abridgement of equal civil rights occurs, whether before or after the beginning of the state court trial.

It should be further noted that the removal from state court into federal court takes effect immediately upon the filing of a removal petition in the federal district court and in the state court; the state court is immediately divested of all jurisdiction; and any subsequent proceeding by the state court is void.

APPENDIX

Chapter 89--DISTRICT COURTS: REMOVAL OF CASES FROM STATE COURTS

...1443. Civil rights cases.

Any of the following civil actions or criminal prosecutions, commenced in a State court may be removed by the defendant to the district court of the United States for the district and division embracing the place wherein it is pending:

(1) Against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof;

(2) For any act under color of authority derived from any law providing for equal rights, or for refusing to do any act on the ground that it would be inconsistent with such law.

(June 25, 1948, ch. 646, 62 Stat. 938.)

...1446 Procedure for removal

(a) A defendant or defendants desiring to remove any civil action or criminal prosecution from a State court shall file in the district court of the United States for the district and division within which such action is pending a verified petition containing a short and plain statement of the facts which entitle him or them to removal together with a copy of all process, pleadings, and orders served upon him or them in such action.

... (c) The petition for removal of a criminal prosecution may be filed at any time before trial.

... (f) If the defendant or defendants are in actual custody on process issued by the State court, the district court shall issue its writ of habeas corpus, and the marshal shall thereupon take such defendant or defendants into his custody and deliver a copy of the writ to the clerk of such State court.

...1447 Procedure after removal generally

(a) In any case removed from a State court, the district court may issue all necessary orders and process to bring before it all proper parties whether served by process issued by the State court or otherwise.

(b) It may require the petitioner to file with its clerk copies of all records and proceedings in such State court or may cause the same to be brought before it by writ of certiorari issued to such State court.

(c) If at any time before the final judgment it appears that the case was removed improvidently and without jurisdiction, the district court shall remand the case, and may order the payment of just costs. A certified copy of the order of remand shall be mailed by its clerk to the clerk of the State court. The State court may thereupon proceed with such case.

(d) An order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise.

WASHINGTON HUMAN RIGHTS PROJECT

619 G STREET S.E.
WASHINGTON 2, D. C.
LI 4-8128

WILLIAM L. MOORE, DIRECTOR

Corrected Copy

COMMENTS ON PROPOSED HOUSE RESOLUTION

This resolution is aimed at the enforcement of the long-dormant Second Section of the 14th Amendment, which would diminish the representation of a State in Congress proportionately to the extent to which the State denies or abridges suffrage to those who are inhabitants of the State, United States citizens, and over twenty-one (with minor exceptions). It should be noted that denial or abridgment for any reason -- e.g. literacy test, interpretation test, or poll tax -- is within the compass of Section 2. Even if the denial is effected by private action, the section applies; the section is concerned only with results. The resolution leaves with the committee the problems of defining "abridgment" in marginal situations and of devising the method for counting the number of those whose right to vote has been denied or abridged.

This proposed House Resolution differs strategically from H.R. 6801, introduced by Rep. Stratton on June 4, 1963, exactly in that it is cast as a resolution rather than as a bill. As a resolution it needs only to win the approval of a majority of the House; first to discharge the resolution, if necessary, from the Rules Committee, and secondly, for its ultimate adoption. A bill, on the other hand, would need the additional support of a majority of the Senate for passage, and almost certainly of two-thirds of the Senate in order to invoke cloture so as to shut off a filibuster.

In essence, the proposed Resolution has two phases: the preparation of a certificate by a select committee, and the taking effect of that certificate unless the House expressly disapproves. By reserving in the House the

authority to prevent the certificate from taking effect, the Resolution leaves open, once it is passed, for Congressional reconsideration without requiring any further affirmative Congressional action.

The House's authority as to the first phase -- to establish the committee and authorize it to submit a report -- is unquestionable.

It is hoped that the mere existence of such a committee, threatening to reduce a state's representation in the House, would induce Southern states to remove the obstacles -- legal and otherwise -- which stand in the way of Negro voting. The certificate finally submitted by that committee would be, at minimum, an effective public reminder of the mandate of the Fourteenth Amendment.

Can the certificate "take effect" so as to regulate conclusively the number of representatives to be elected in 1964? Article I Section 5 of the Constitution gives the House final authority in judging the qualifications for its membership, and hence makes the House Resolution generally available as a way of implementing Section 2. It is by Resolution that the House regularly resolves disputes as to the legitimacy of a contested Congressional election. Specifically, the House has used the resolution to bar the seating of a Representative when the House found that federal law had invalidated his election. In 1862 the House adopted a resolution which denied a seat to a Representative purportedly elected in California. The grounds were that California, contrary to federal law, had used the 1860 rather than the 1850 census in ascertaining the size of its Congressional delegation, and hence had elected one Representative too many. (Hinds' Precedents of the House of Rep. v. 1, 1807, sec. 314).

The "take effect" phrase of the Resolution here proposed operates prospectively; it would set guides for a coming election rather than settle a dispute as to a previous one. Consequently, to be fully effective it would require the collaboration of the next House. This is a problem common to every

House resolution or rule which is designed to endure beyond the session in which it is adopted; a subsequent House can nullify by nonenforcement or nonrenewal. A House Resolution of the 85th Congress, reported as it would be by a clear constitutional mandate, would hopefully have a strong persuasive effect upon the subsequent House when that body comes to judge the qualifications of its members. And enforcement may be unnecessary, for states may well respond to the Resolution by removing voting restrictions so as not to run the risk of reduced representation.

HISTORICAL NOTE

On December 7, 1871, the House adopted a House Resolution proposed by Rep. Willard which directed the Secretary of the Interior to prepare census figures in accordance with Section 2. (Globe, 42d Cong., 2d sess., 1871-2). In 1870 and again in 1877, Rep. Tinkham introduced Resolutions directing the Committee on the Census to prepare a report for the purpose of enforcing Section 2. (H. Res. 591, 36th Cong., 3d sess.; H. Res. 34, 70th Cong., 1st sess.) On June 2, 1921, the Committee on the Census resolved that Section 2 required an investigation, under either House Resolution or Bill, of voting denials and abridgements. (Hearings before a subcommittee of the Committee on the Census on Apportionment of Representatives, House of Representatives, 67th Cong., 1st sess., June 27, 28, 29, 1921 p. 7)

H. Res. _____

Mr. _____ introduced the following resolution which was referred to the Committee on Rules.

RESOLUTION

Creating a committee to investigate, make findings, and determine the representation in the House to which each State shall be qualified.

Resolved, that there is hereby created a committee to be composed of eleven members of the House of Representatives to be appointed by the Speaker, one of whom he shall designate as chairman and no more than seven of whom shall be members of the same political party.

This committee, pursuant to Article 1, Section 5 of the United States Constitution, is authorized to investigate, make findings and determine the following matters:

- 1) The number of persons, being inhabitants of the several States, citizens of the United States, and twenty-one years of age, whose right to vote in any election for President or Vice-President of the United States, Representatives of Congress, executive and judicial officers of a State or the members of the legislatures thereof, is denied or abridged for any reason except for participation in rebellion or other crime.
- 2) By use of the findings in (1), the numbers of Representatives to the House to which each State shall be entitled in accordance with Amendment 14, Section 2, of the Constitution of the United States.

For the purposes of carrying out this resolution, the committee, or any subcommittee thereof authorized to hold hearings, is authorized to sit

and act during the present Congress at such times and places within the United States, whether the House has recessed or has adjourned, to hold such hearings, to make such inspections and investigations, and to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, reports, papers and documents as it deems necessary. Subpoenas may be issued over the signature of the chairman of the committee or any member of the committee designated by him, and may be served by any person designated by such chairman or member. The chairman of the committee or any member thereof may administer oaths or affirmations to witnesses.

For the purposes of further carrying out this Resolution, the committee is directed to utilize the services of the United States Commission on Civil Rights and the United States Bureau of the Census as are necessary to obtain the required findings and determinations.

The committee shall certify its findings to the House by March 1, 1964. If, sixty days after the submission of this certificate, the House has not expressly disapproved it, the certificate shall take effect as a determination by the House of the number of Representatives from each State who qualify, in accordance with Amendment 14, Section 2 of the Constitution of the United States, for membership in the House in the 89th Congress, and notice shall be sent by the Clerk of the House to the Executive Authority of each State indicating the number of Representatives from that State who are thereby constitutionally qualified for membership in the House in the 89th Congress.

Resolved, further, that the expenses of the investigations to be conducted by the select committee created by this Resolution, not to exceed \$500,000, shall be paid out of the contingent fund of the House on vouchers authorized by such committee and signed by the chairman thereof.

17 June 1963

MEMORANDUM TO THE HONORABLE LEE C. WHITE

I have brought the voting matters up to date.
What about all of the President's meetings? They
should be included. Also copies of his speech.
Could I have lots of copies?

BM

Attachment
BY HAND

Miss:
June 17, 1963

[REDACTED]
Birmingham, Alabama

Dear Mr. [REDACTED]

Thank you for your letter of May 29, 1963 in which you submitted the name of Mr. [REDACTED] to be considered in connection with the appointment of an Assistant U.S. Attorney for the Northern District of Alabama. Macom L. Weaver is the United States Attorney for the Northern District of Alabama, and I would suggest that Mr. [REDACTED] contact him for an interview.

Mr. Weaver's address and telephone number are as follows: 354 Federal Building, Birmingham, Alabama; FAirfax 2-8669.

Best regards,

BURKE MARSHALL
Assistant Attorney General
Civil Rights Division

DEPARTMENT OF JUSTICE

TO

- ☐ ATTORNEY GENERAL
☐ EXECUTIVE ASSISTANT
☐ OFFICE OF PUBLIC INFORMATION
☐ DEPUTY ATTORNEY GENERAL
☒ EXECUTIVE OFFICE—U. S. ATTORNEYS
☐ EXECUTIVE OFFICE—U. S. MARSHALS
☐ SOLICITOR GENERAL
☐ ADMINISTRATIVE DIVISION
☐ LIBRARY
☐ ANTITRUST DIVISION
☐ CIVIL DIVISION
☐ CIVIL RIGHTS DIVISION
☐ CRIMINAL DIVISION
☐ INTERNAL SECURITY DIVISION
☐ LANDS DIVISION
☐ TAX DIVISION
☐ OFFICE OF LEGAL COUNSEL
☐ OFFICE OF ALIEN PROPERTY
☐ BUREAU OF PRISONS
☐ FEDERAL BUREAU OF INVESTIGATION
☐ IMMIGRATION AND NATURALIZATION SERVICE
☐ PARDON ATTORNEY
☐ PAROLE BOARD
☐ BOARD OF IMMIGRATION APPEALS
☐ ATTENTION _____

- ☐ SIGNATURE
☐ APPROVAL
☐ RECOMMENDATION
☐ COMMENT
☐ NECESSARY ACTION

- ☐ NOTE AND RETURN
☐ SEE ME
☐ PER CONVERSATION
☐ AS REQUESTED
☐ NOTE AND FILE

☐ ANSWER OR ACKNOWLEDGE ON OR BEFORE _____

☐ PREPARE REPLY FOR THE SIGNATURE OF _____

REMARKS:

BM
John Reilly:

This should be considered. What can I tell _____

↓
Tell him that Hall should contact Weaver & be interviewed

JRE

FROM _____

[REDACTED]
BIRMINGHAM, ALABAMA

TELEPHONE [REDACTED]

May 29, 1963

Honorable Burke Marshall
Assistant Attorney General of
The United States
Department of Justice
Washington 25, D. C.

Dear Sir:

It has been brought to my attention that your office is planning appointment of an Assistant U. S. Attorney in the United States District Court For The Northern District of Alabama, Southern Division. I highly recommend to you my associate, Mr. [REDACTED] for this position.

Mr. [REDACTED] will forward to you, Civil Service Form #57 immediately.

Thanking you for your kind cooperation in this matter,
I am

Very truly yours,
[REDACTED]
[REDACTED]

OBJr./c

CC Honorable Louis Martin

*John Rilly:
this should be
considered: what can I
tell [REDACTED]
[REDACTED]*

FROM
DIRECTOR OF PUBLIC INFORMATION
OFFICE OF THE ATTORNEY GENERAL
to
Official indicated below by check mark

Miss

	MEMORANDUM
Attorney General	
Deputy Attorney General	
First Assistant Deputy Attorney General	Barks:
Executive Office For U. S. Attorneys	Better have another talk
Executive Office For U. S. Marshals	with Louis Lomax.
Solicitor General	BI
Executive Assistant to the Attorney General	
Assistant Attorney General, Antitrust	
Assistant Attorney General, Tax	
Assistant Attorney General, Civil	
Assistant Attorney General, Lands	
Assistant Attorney General, Criminal	
Assistant Attorney General, Office of Legal Counsel	
Assistant Attorney General, Internal Security	
Assistant Attorney General, Civil Rights	
Administrative Assistant Attorney General	
Budget and Accounts Office	
Records Administration Office	
Personnel Office	
Administrative Services Office	
Supplies and Printing Section	
Transcription Section	
Director, FBI	
Assistant to the Director - Room 5640	
Director of Prisons	
Director, Office of Alien Property	
Commissioner, Immigration and Naturalization	
Pardon Attorney	
Parole Board	
Board of Immigration Appeals	
Librarian	

Date: MAY 27 1963

The Negro Revolt - Three Articles

The *By Louis E. Lomax* Absence of Justice

BIRMINGHAM

THIS IS WAR, another battle in what I have called "The Negro Revolt." Yet what this troubled town needs is not the absence of trouble but the presence of justice.

Few people, including the President and the Attorney General, realize that the American Negro is now making his maximum effort for freedom and justice. The use of little children, the purest of our troops, in Birmingham, among the meanest of places, was the tip-off that a major and pivotal civil rights battle was underway. And the use of children will spread, for now is nonviolence's most perilous hour.

Nonviolence turns on the notion that such a moral battle of attrition will bring us the victory. It should be clearly stated that Negroes have resorted to nonviolence not because we are all that moral, but because the other cheek is the only practical weapon in our arsenal. We aim, of course, at the conscience of men, at the souls of our adversaries. But in all candor, few, if any, of us really believed Eugene "Bull" Connor would respond in terms of the soul and the spirit. He did precisely what was expected: He unleashed dogs on children and felled women with fire hoses. Then his underlings rushed to the fallen women and pinned them to the ground, the knees of the police on their breasts.



GOVERNOR GEORGE WALLACE

In a very real sense, this played into our hands. The scene was transmitted to all the world, and men of all cultures and languages discovered anew the savagery of the land we black Americans call home.

To our dismay, the Kennedy Administration continues to climb the back side of the civil rights mountain. It will be recalled that the Attorney General urged the Freedom Riders to call a halt to their journeys down South while his brother, the President, was on an overseas trip. Now, in Birmingham, the younger Kennedy questions the morality of the Negro effort, and underscores the risk of using children in the front lines. "A maimed child," he

has said, "is something we can hardly afford."

Only because he does not realize the seriousness of our revolt, the Attorney General fails to understand that every American Negro is maimed at birth. He may overcome this somewhat, but never fully so: To be black in this land is to be an outcast in the house of one's fathers, a leper in the land of the white and the cancerous.

If the Attorney General needs evidence of just how maimed Negroes in Birmingham already are, let him examine the mass of material gathered by Thelton Henderson, a Justice Department field man who has been gathering evidence for a voter registration suit in Birmingham for the past several weeks. The voter registration cards show such things as:

Name: John Jones.

Age: 35.

Education: College degree.

Occupation: Bell hop.

Name: Mary Jones.

Age: 33.

Education: Three years college.

Occupation: Maid.

John and Mary Jones, and there are hundreds like them, are in the tradition of Birmingham. They meet the man—the white man—every morning; they get paid every Friday afternoon. They shop in stores

where they cannot sit down and have a hot dog, or use the bathroom. John and Mary Jones cannot try on the suits and dresses they are thinking of buying. "They might get nigger smell on them clothes," one merchant said. But there is one liberal store in town; they will let Mary try on a garment but she cannot, of course, use the dressing room with white women. So she must go out into the alley behind the store and slip into the garment while nobody is looking. If she doesn't like it, or it doesn't fit, she can bring it back. The manager is a liberal and doesn't mind.

John and Mary Jones have children—John Jr., 13, and Susan, 11, named after her maternal grandmother. They were doing well in school. Now, like about a fourth of the school children in Birmingham, John Jr. and Susan are in jail. And late into the night you can stand with John and Mary Jones in front of the county jail and hear the children sing:

*If in our hearts,
We do not stray,
We will overcome
Some day.*

Then, still from the jail, there rises a young squeaky voice in prayer, and his fellow holy inmates urge him on:

"O Lord have mercy!"

Yes, Lord.

"Stand by us as we suffer for the right."

Please Lord, Please Lord.

"Help our fellow students who will demonstrate tomorrow."

Lord, Lord, Lord.

"Dry up the fire hoses, Lord."

Yes, Yes, Yes!

"And lock the jaws of them vicious dogs."

Yes Jesus! Do, Lord, do.

"Goddammit, you boys and girls move on. If you cared about your children they wouldn't be here."

And so the vigil outside the jail is over. The white policeman, his

night stick at the ready, says move on. This is Birmingham. When a white man—particularly a white policeman—says "move on," black folks move on or get beaten and then jailed for disorderly conduct.

This is Birmingham in peace; this is Alabama in tranquillity. For the Birmingham policemen are the best of the lot. Indeed, Birmingham police spent much of their time restraining State Troopers—rednecks from the bush—who wanted to wade in and club Negroes whether they were involved in the demonstrations or not.

Little wonder, then, that the frenetic efforts of the Kennedy Ad-



* TROOPER ALBERT LINDO

ministration to restore peace, law, and order, fell flat with Negroes all over America. Peace, law, and order to the Negro mean little more than enforcement of the *status quo*.

Even so, the Negroes did not disturb the peace, upset order, or break the law. They sought to demonstrate peacefully against what they felt was injustice. The city said they needed a permit to demonstrate; the Negroes applied for the permit and were denied. So they marched, two by two, singing and praying, confident that the Constitution of the United States would save them from the hell of an Alabama jail; certain that one day they would be able to sit down and

have a hot dog, use the bathroom and try on a dress before they buy it. The order was broken, the peace disturbed, by those who would deny Negroes even the right to protest.

And so Assistant Attorney General Burke Marshall, head of the Justice Department's Civil Rights Division, came to town, took up headquarters in a segregated motel and proceeded to mediate the dispute. The Administration's overriding concern was with the restoration of order, the maintenance of peace. In the process, justice was trampled. To be sure, the Negroes got a crumb. There was some progress made. But justice was not done; the aggrieved, rather than the criminals, were advised to slow down, be moderate, not make waves. It should have been the other way around. Justice, at the expense of martial law and Federal occupation, should have been imposed on this tormented town. The men who threw the bombs, put dogs on children, and manhandled defenseless Negro women, should have been told to slow down, not move too fast, be moderate.

President Kennedy has done more for civil rights than any President in history. But the nature of the times demands that more be done for civil rights than at any other period in history. Kennedy, then, cannot be measured by the past; he must stand muster before the *now* and the *tomorrow*. The John Fitzgerald Kennedy of 1963 would have been a great President in 1950. That, however, was over a decade ago. If he would have his own profile be one of courage, the President must, and soon, meet the demands of the future, not grapple with the needs of the past.

This is war. For the Negro it is a holy war, and we are of the holy war nonwhite men all over the world are now waging. We are not concerned with the absence of trouble; our commitment is to the presence of justice. For then, and only then, will we have overcome.

Form No. BJ-96a
(Rev. 4-13-61)

DEPARTMENT OF JUSTICE
ROUTING SLIP

TO	
NAME	BUILDING AND ROOM
1 Mr. Marshall	
2	
3	
4	
5	

<input type="checkbox"/> SIGNATURE	<input type="checkbox"/> COMMENT	<input checked="" type="checkbox"/> PER CONVERSATION
<input type="checkbox"/> APPROVAL	<input type="checkbox"/> NECESSARY ACTION	<input checked="" type="checkbox"/> AS REQUESTED
<input type="checkbox"/> SEE ME	<input type="checkbox"/> NOTE AND RETURN	<input checked="" type="checkbox"/> NOTE AND FILE
<input type="checkbox"/> RECOMMENDATION	<input type="checkbox"/> CALL ME	<input checked="" type="checkbox"/> YOUR INFORMATION
<input type="checkbox"/> ANSWER OR ACKNOWLEDGE ON OR BEFORE _____		
<input type="checkbox"/> PREPARE REPLY FOR THE SIGNATURE OF _____		

REMARKS

Burke:

This is an awfully bureaucratic response by Harold Greene and Holloran. I would think the Attorney General would prefer to think it through - actually five lawyers on public accommodations and five on schools would probably be enough for a start. Resistance - arrest (intimidation) and extent (area) would determine whether budget would grow.

John

FROM	BUILDING, ROOM, EXT.	DATE
NAME		

Mr. Macomber
Miser

MISCELLANEOUS

Q. What will be the additional cost to the Government of this new legislation?

A. I estimate that the additional cost to the Department of Justice in connection with the public accommodations and education parts of the bill will be about 1.5 million dollars. This amount would pay for about 50-60 additional attorneys and a comparable number of clerical personnel. Of course it is difficult to be precise about this at this stage.

Burke

This is a carefully reasoned response by Harold Green & Jackson. I would think the Attorney General would prefer to think it through - actually 5 lawyers on public accommodations and 5 on schools would probably be enough for a START - Resistance - amount (intimidation) and extent (over) would determine whether Budget would grow - John

Form No. DJ-46a
(Rev. 4-13-61)

DEPARTMENT OF JUSTICE
ROUTING SLIP

TO	
NAME	BUILDING AND ROOM
1. John Deor	
2.	
3.	
4.	
5.	

Handwritten in column 2:
I have -
I think it should
work in the
division -

<input type="checkbox"/> SIGNATURE	<input type="checkbox"/> COMMENT	<input type="checkbox"/> PER CONVERSATION
<input type="checkbox"/> APPROVAL	<input type="checkbox"/> NECESSARY ACTION	<input type="checkbox"/> AS REQUESTED
<input type="checkbox"/> SEE ME	<input type="checkbox"/> NOTE AND RETURN	<input type="checkbox"/> NOTE AND FILE
<input type="checkbox"/> RECOMMENDATION	<input type="checkbox"/> CALL ME	<input type="checkbox"/> YOUR INFORMATION
<input type="checkbox"/> ANSWER OR ACKNOWLEDGE ON OR BEFORE _____		
<input type="checkbox"/> PREPARE REPLY FOR THE SIGNATURE OF _____		

REMARKS

2 May

John:

Are we too late? If not, would you write these?

BN

(JD: If you want to give the letter to me, I will try to arrange to type these on a typewriter the fellows won't recognize, so they won't know we prepared the letter. L)

FROM NAME	BUILDING, ROOM, EXT.	DATE

From

THE ATTORNEY GENERAL

Deputy Attorney General.....	
Solicitor General	
Executive Assistant to the Attorney General	
Assistant Attorney General, Antitrust	
Assistant Attorney General, Tax	
Assistant Attorney General, Civil	
Assistant Attorney General, Lands	
Assistant Attorney General, Criminal.....	
Assistant Attorney General, Legal Counsel.....	
Assistant Attorney General, Internal Security.....	
Assistant Attorney General, Civil Rights	
Administrative Assistant Attorney General.....	
Director, FBI.....	
Director, Bureau of Prisons.....	
Director, Office of Alien Property.....	
Commissioner, Immigration and Naturalization...	
Pardon Attorney	
Parole Board	
Board of Immigration Appeals	
Special Assistant for Public Information	
Records Administration Office	

For the attention of Burke Marshall

REMARKS:

The Attorney General wants to write a note to each of the four lawyers thanking them for their work on the brief. Would you?

Susan Newman

John: New to LIT? If not, would you write them? S

Department of Justice
Washington

11 March 1963

MEMORANDUM FOR THE ATTORNEY GENERAL

Attached for your information is a copy of the brief and appendix which was filed in connection with our efforts to knock out as unconstitutional the Louisiana Constitutional Interpretation Test.

This was presented to the Court last week.

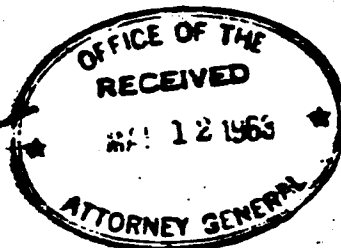
I think a flip through the brief and the appendices will show how much work went into the brief. It is a highly competent, well-organized piece of work, setting forth factual material in great detail but in a manner that can be easily followed.

Except for me, the persons whose names appear on the brief are responsible for this job. But in addition four other lawyers in the Division worked very hard for several weeks in organizing and preparing material. These are Richard K. Parsons, Louis N. Kauder, Alexander C. Rhys, and Thelton E. Henderson. I would appreciate it if you could call these men or drop them a note on this piece of work.

RM
BN

Attachment

*write and
thank all 4
for work done
on brief*



THE ATTORNEY GENERAL
WASHINGTON

CLASS OF SERVICE

This is a fast message unless its delivery character is indicated by the proper symbol.

WESTERN UNION TELEGRAM

07-000 1179

SYMBOLS	
DAY	Day Letter
NIGHT	Night Letter
LT	International Letter Telegram

The first time shown in the day line on domestic telegrams.

AHA360 AH-NA687
PD VUX NEW YORK NY 16 538P EST

NYR

THE EDITORS OF TIME MAGAZINE HAVE RECEIVED YOUR LETTER PLAY:
TO PRINT EXCERPTS FROM IT IN THE LETTERS SECTION OF THE ISSUE
DATED FEB 22

NANCY FADER LETTERS EDITOR

22

(27).